

# Stringfellow Acid Pits: The Toxic and Legal Legacy By Brian Craig

*Reviewed by Dan Lawton*

My three brothers and I grew up in Fullerton, in northern Orange County, during the 1970's. Our parents felt no anxiety about letting us walk or ride bikes to school by ourselves. Our play in the streets and vacant lots was mostly unsupervised. During the summer, the main rule was to return home by the time the streetlights came on. Around the fields where we played Little League baseball, oil pumpjacks dotted the hills. The sign posted on the fence aside the gravel parking lot declared the park's name: Union Oil Field. To us, it, like the rest of California, seemed a kind of paradise.

As a teenager, I read an article in the local newspaper about Fullerton residents who had moved into a new housing development north of us, off of Rosecrans Avenue. The new homeowners smelled foul odors. Mysterious liquids oozed from the ground. Some people had gotten sick.

Before then, no one had told the residents that the city and home builder had sited their dwellings on soil which rested a few feet above 100,000 cubic yards of petroleum refinery waste which Texaco, Union Oil Co., and other oil companies had dumped into unlined pits in the ground on the 22-acre site during the

1940's. Later, the site's operator had covered the pits with drilling mud and dirt. In the 50's, when he did it, the area was only sparsely populated. I suppose he hoped no one would notice later.

Someone did notice, of course. The place, which became known as the McColl dump site, made the Superfund's National Priority List in 1982. Years of litigation and remediation followed.

The McColl dump site was too far from where our family lived to have exposed us to any harm. But to a naïve boy, the news left an impression. The idea that a company could dump tons of harmful chemicals into the ground, cover it up, and leave it behind in our little town was strange to me. It seemed like a thoughtless and rotten thing to do, the kind of thing that would mortify your mother if she heard you had done it.

And so the McColl dump site came to mind right away when I heard of Brian Craig's new book, *Stringfellow Acid Pits: The Toxic and Legal Legacy* (Univ. Michigan Press), about the notorious Superfund site in Riverside County. Craig is a lawyer and law professor. Here, he has undertaken a daunting task: to relate a



*Dan Lawton is a member of California Litigation's editorial board. He is senior counsel with Klinedinst PC, where he practices litigation in the firm's appellate and professional liability groups.*

story of toxic contamination and marathon litigation that spanned decades, and to keep it interesting. Mostly, he succeeds. *Stringfellow Acid Pits* is a prodigious feat of legal scholarship.

During the 1950's, Riverside County officials were keen to entice industry into the area. They envisioned something that was sorely needed by the manufacturers and aerospace companies who drove much of southern California's economy during the early years of the Cold War. It was a toxic waste dump. But where to put it?

Jimmy Stringfellow owned 17 acres in Pyrite Canyon at the base of the Jurupa Mountains. He used it to operate a rock quarry. Local officials thought the site was ideal for dumping toxic waste. In 1955, they approached him and asked if he would allow a geological survey of the land, to see if the bedrock underneath was solid and impermeable. Stringfellow agreed.

The officials got what they paid for. A junior geologist employed by the state of California, Robert Fox, visited the site. There he spent 30 minutes, maybe 45. He looked around. In 1955, there were backhoes, power augers, and rotary drills — tools that a geologist could use to look at bedrock, take core samples, and look for buried streams. But Fox had been told to keep his work on budget. The budget for his survey was \$300. There were trees, plants, and springs around the site, suggesting the presence of groundwater. If this occurred to Fox, he paid it no mind. His survey consisted of looking around. He prepared a report declaring the property safe for the dumping of toxic waste.

If you're reading this review, you're probably a lawyer, so you know where this is going. Fox was tragically and wildly wrong. The

granite underlying the site was decomposed. An alluvial channel ran through the fractured bedrock.

Oblivious, Jimmy Stringfellow agreed to allow the state to design and build a toxic waste dump on his land. He formed a corporation, the Stringfellow Company, to operate it.

By 1956, trucks were rumbling up the canyon, hauling waste to Stringfellow's property for dumping into the unlined pits hastily dug by state contractors. The names of the companies whose toxic sludge the truckers dumped there would be familiar to anyone who grew up in southern California in the postwar years: McDonnell Douglas, Montrose Chemical, General Electric, Hughes Aircraft, Northrop, and Rockwell International. Most of it went into the pits. Other times, the operators sprayed liquid wastes into the air. There was sulfuric acid, sodium hydroxide, polychlorinated biphenyl (PCB), various pesticides, lead, manganese, and chromium. There were spent acids and caustics, solvents, pesticide byproducts, vapor degreaser waste, and paint booth sludge. Sometimes, when organic material got mixed in, the foul brew caught fire.

What the truckers thought of what they were doing is not recorded. But state officials thought it all grand. Dumping toxic waste at Stringfellow beat prior disposal techniques — dumping waste in the Pacific Ocean or by the side of the road — by a long shot. When manufacturers asked state officials what to do with their hazardous waste, the common answer became, "Send it to Stringfellow."

Initially, formal protocols governed dumping at the site. There were forms to be filled out, lists of what could and could not be dumped, and the need to obtain ad-

vance written approval for each load. These protocols eroded as time passed. In 1969, the state eliminated the need to get written approval for every shipment. Oral approvals replaced written correspondence. By 1971, Stringfellow was allowing “unsupervised night dumping,” supposedly available by telephone appointment. Eventually, the need for a phone call went by the boards and the gate was left unlocked so truckers could let themselves in at any hour of day or night. Drivers started dumping their loads when no one from the Stringfellow Company was present. Who knows what they dumped there in the dead of night when no one else was around. The volume of waste dumped there from 1956 to 1972 is thought to exceed 34 million gallons — enough to fill 34 swimming pools as long as a football field each, 50 feet wide, and 10 feet deep, or to cover over 104 acres of land to a depth of one foot.

The waste leached down through the ground, through the fractures and fissures in the bedrock underlying the pits, around the ends of a negligently-constructed dam, and into the aquifer below. Except for a few small posted signs, no one told the people who lived in the surrounding area they lived near a toxic waste site. There was no fence to keep anybody out. Teenagers paddled canoes in the toxic stew, thinking the ponds were like reservoirs meant for recreation rather than toxic waste ponds brimming with hazardous chemicals. When heavy rains fell, the site flooded, causing the ponds to overflow their banks. Contaminated water cascaded down Pyrite Canyon and into a stream, Pyrite Creek. In the nearby town of Glen Avon, children were seen splashing in puddles and making fake beards out of the toxic foam that lay on the streets. The state closed the site temporarily and tried to figure out what to do.

The responsible officials and other players did the predictable things. They blamed one another. They waited for someone else to do something. They insisted studies were needed. They dithered. They refused to take action that might cost money or threaten to expose anything embarrassing. They demanded Stringfellow’s financial condition be investigated before giving him any money to abate conditions at the site. When the state’s chief geologist recommended repairs that would have cost \$410,000, the state water board rejected them as too expensive. “The normal procedure is to follow the normal procedure,” wrote one bureaucrat. Several years passed. The trucks kept rolling.

While state and local government officials fiddled, local citizens did something. Penny Newman was a mother of two and a teacher in Glen Avon. She was active in the PTA and Cub Scouts. In 1978, a series of rainstorms caused the acid pots to overflow into her home, among others’ homes, and school playgrounds. She sprang into action and organized a group of mothers who wanted to do something, the Parents of Jurupa.

Glen Avon residents began suffering acute health problems, including birth defects, along with headaches, dizziness, asthma, and nausea. Contaminants were found in surface water miles downstream of the ponds. Stringfellow’s toxic waste kept flowing into ditches and culverts, backing up sewers, and causing shoes and clothes to disintegrate.

Stringfellow was hardly unique for its time. It was one of hundreds of such sites in the U.S. A few others may ring a bell: Love Canal in New York, the Valley of the Drums in Kentucky, and the Chemical Control site in New Jersey. In 1980, impelled to act by community outrage over these and other notorious sites, Congress enacted CERCLA,

the Comprehensive Environmental Response, Compensation, and Liability Act, also known as the Superfund law. It provided for abatement and clean-up of hazardous waste by holding the parties responsible strictly liable. It created a trust fund to finance clean-ups when the government couldn't locate the responsible parties.

Stringfellow was a poster child for clean-up under CERCLA. But the law was only as good as the person charged with enforcing it. In 1982, that was Anne Gorsuch, Ronald Reagan's director of the EPA. She might have ordered some Superfund cash spent at Stringfellow. But it was an election year, Gorsuch was a conservative Republican, and Jerry Brown, a Democrat, was running for U.S. Senate against Pete Wilson. Gorsuch didn't want Brown taking credit for any clean-up of the Stringfellow site. So she withheld the cash. When an outraged Congress demanded she produce records concerning the matter, Gorsuch refused to turn them over, earning the distinction of becoming the first agency director ever cited for contempt of Congress. She resigned in ignominy in 1983, citing the pressure of the investigation. The national media's coverage of the story eroded public trust in the Superfund program. If hacks like Gorsuch could treat Superfund money like a political football while toxic waste poisoned Americans, what good was the law?

After Gorsuch slunk out of Washington, the EPA got busy on Stringfellow. The agency designated the site the most contaminated place on the west coast. Soon the EPA identified 224 companies that had dumped toxic waste at Stringfellow, and found 199 of them. When no agreement with them was forthcoming, the federal government sued for cleanup and to hold "the parties responsible for the toxic waste." The State of California joined the

case, *U.S. v. Stringfellow*, as a co-plaintiff. The Department of Justice filed the case in federal court in Los Angeles in 1983. The first-named defendant in the caption was none other than Jimmy Stringfellow. The list of defendants read like a Who's-Who of titans of California's aerospace and manufacturing industries: Montrose Chemical Corp., Rohr Industries (of San Diego), Rockwell International, McDonnell Douglas, Alcan Aluminum, Weyerhaeuser, and Northrop. As the lawyers did their work in Los Angeles, Stringfellow, about 45 miles east, was still leaking like a sieve. The EPA undertook remediation measures at the site. But some of its work aggravated, not reduced, the problem, illustrating the dreaded greeting, "I'm from the government and I'm here to help."

The ensuing litigation exceeded three decades, employed and enriched a battalion of over 1,000 attorneys who billed countless hours, consumed scores of millions of dollars in attorneys' fees as it ground forward in several courts, including the U.S. Supreme Court, and occupied the national media.

Midway through Craig's book, I felt my initial identifications of good guys and bad guys melting away. Jimmy Stringfellow's name was synonymous with environmental disaster. He had owned and operated a toxic waste dump which poisoned his community. But he was no geologist, and he had allowed the site to be built on his land only after state authorities guaranteed its safety as a catchment for toxic waste. Montrose Chemical, McDonnell Douglas, and many others had dumped huge volumes of poison into Stringfellow. But before dumping, hadn't they asked the state where to dispose of their waste? And hadn't the state replied, "Send it to Stringfellow"?

There is unexpected irony in the tale. Craig casts Jimmy Stringfellow, the owner

and operator of the most notorious toxic waste dump in California, as a dupe and a victim who prevailed in the end. The State of California, which joined the U.S. in suing Stringfellow in 1983, winds up liable for the whole mess, the villain who insisted on opening the site, designed it badly, ignored recommendations to improve its safety, and continued to approve the dumping of colossal volumes of toxic waste there for 16 years over the recommendations of its own geologist. We Californians fondly think of our state as a forward-looking pioneer in enacting environmental protection laws and safeguarding its environment. Reading *Stringfellow Acid Pits* will quickly disabuse you of that notion.

Craig is a lawyer, and he writes like a lawyer, a little too much like one in places. The nonlawyer reader will struggle to understand legal terms like collateral order doctrine, venire, summary judgment, directed verdict, and permissive intervention. Craig assumes the general reader must understand what the word “deposition” means; he does not pause to explain it to the uninitiated. Later, however, in describing Jimmy Stringfellow as “hapless,” he dumbs it down: “the term ‘hapless’ is defined as having no luck or unfortunate.” I wish Craig were less fascinated with the minutiae of procedural rules and interlocutory orders and more interested in the human story that underlies the legal tapestry he unravels in *Stringfellow Acid Pits*. Does the reader really need to know the names of all of the lawyers who were on the brief filed by Latham & Watkins in the U.S. Supreme Court? Craig lists them — then never refers to them again.

Nevertheless, Craig succeeds in compressing a complicated story into a single volume. But, alas, a good copy edit would have helped *Stringfellow Acid Pits* avoid some redundancy. We are told, twice, that Latham & Watkins

is a “preeminent law firm” and a “top law firm.” We are told several times that children in Glen Avon made fake beards out of toxic foam they found on the ground. Elsewhere, there are unexplained gaps in the chronology, and departures from a coherent chronology, making for a sometimes-muddled narrative. Craig tells us that Latham & Watkins’ David Mulliken “passionately argued the interests of” his client, Montrose Chemical Corp., at the Supreme Court in 1987. But he doesn’t tell us what Mulliken argued, or why he was passionate about it. An audio recording of the hearing, or even an interview with Mulliken, would have helped us re-live the moment. But Craig does not bother with these things, leaving the reader wondering. Craig tells us that Jimmy Stringfellow twice resisted the state’s entreaties to open his property for use as a toxic dump site before finally relenting. What made him change his mind? Craig does not say.

Craig ends with a feel-good review of lessons learned, praising the Stringfellow litigation as exemplifying the best that the American legal system can produce in a case involving a mass catastrophe. “By all accounts,” he writes, “justice was indeed served with the Stringfellow litigation.”

I wonder. An army of litigators gobbled up millions of dollars in taxpayer money that was intended to remediate a hazardous waste dump. While lawyers, insurance carriers, large corporations, and the federal and state governments slugged it out in the courts for over 30 years, the residents of Glen Avon died and got older. California taxpayers paid nearly \$100 million to settle with the federal government in 2001, 18 years after the lawsuit was filed. And still the site remains contaminated. Indeed, Stringfellow won’t be fully cleaned up for another *500 years*. Jimmy Stringfellow

died before he could settle his case with the State. If all of that is justice being served, it seems impossible to feel good about it.

A RAND study concluded that, of the millions of dollars insurance companies spent on Superfund toxic waste sites, 90% of it wound up going into legal battles, mostly with the insurers' own policy holders. In assessing the Superfund program, Bill Clinton said, "We all know it doesn't work . . . . All the money goes to lawyers, and none of the money goes to clean up the problems it was designed to clean up." If there is a message there about the role of lawyers in remedying terrible problems, it is not a cheerful one. Insurance companies have a poor reputation for their classic strategy in fighting their own insureds, captured in the motto, "Delay, deny, defend." Perhaps no case illustrates the zealous practice of this motto better than the Stringfellow litigation. Can there be any doubt as to who it is who did the delaying, denying, and defending, to their own profit and advantage? It was insurance carriers, corporate defendants, and the State of California. But it was we lawyers, and nobody else, who enabled them to do it as effectively as they did it.

The ghost hovering above Craig's tale is the awful truth of the environmental cost of the Cold War. In the giddy days following the collapse of the Soviet Union, jubilant American political leaders and pundits celebrated on television and in print. Amid the orgy of self-congratulation, some names went unmentioned. They included Hanford, Washington, Rocky Flats, Colorado, and Bikini Atoll — sites so befouled by nuclear weapons production or testing that no one could safely live or work within miles of them. In the end, Glen Avon and its people paid a price for America's victory in the Cold War just as surely as the residents of Hanford, Rocky Flats, and Biki-

ni did. If any of the government officials or corporate polluters who made them pay that price ever said, "thank you for your sacrifice," their words have gone unrecorded.

I wish this book were for a general audience. But it isn't. There's too much legal esoterica, too much fascination with lawyers and procedure, and not enough human drama and character development. The audience for *Stringfellow Acid Pits* is lawyers, judges, law students, and anyone who cares about the history of environmental contamination in the U.S. during the Cold War. Don't be scared off by the exorbitant hardcover price of *Stringfellow Acid Pits* (\$90). If you have a Kindle, Amazon will sell you an electronic version for \$14.

I still love visiting Fullerton, where I go to see my parents. After pulling off the freeway, I drive down Brea Boulevard, past Union Oil Field, on my way to their home. The old Little League fields where my brothers and I used to play are still there. The pumpjacks are still there too. They bob slowly up and down, sucking oil out of the ground alongside the bright green ball fields and the brown scrub-covered hills. Here and there, a jackrabbit darts in the brush. The sight captures California as a kind of Paradise Lost, an idyllic place despoiled by men too selfish and careless to avoid poisoning the land and groundwater that they left for their descendants and the taxpayers to clean up later, a space where natural beauty and peace prevail alongside the tools of extraction and pollution, where vile things we would rather not contemplate lie hidden just below the surface.